REMARKS

Applicants thank the Examiner for the very thorough consideration given the present application.

Claims 12-15 are now present in this application. Claims 12 and 15 are independent.

Amendments have been made to the specification, claims 1-11 have been canceled, and claims 12 and 15 have been amended. Reconsideration of this application, as amended, is respectfully requested.

Priority Under 35 U.S.C. § 119

Applicants thank the Examiner for acknowledging Applicants' claim for foreign priority under 35 U.S.C. § 119, and receipt of the certified priority document.

Information Disclosure Citations

Applicants thank the Examiner for considering the reference supplied with the Information Disclosure Statement filed March 15, 2004, and for providing Applicants with an initialed copy of the PTO-1449 form filed therewith.

Applicants are submitting on even date herewith another Information Disclosure Statement listing four foreign patent documents. Applicants respectfully request that the Examiner take this IDS into consideration when preparing to respond to this Amendment.

Specification Amendments

Applicants have amended the specification in order to correct an obvious typographical error.

Rejection Under 35 U.S.C. § 102

Claims 1, 3-7 and 9-11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,738,034 to Maramatsu. This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

Applicants note that this rejection is moot because claims 1, 3-7 and 9-11, have been canceled.

Rejections under 35 U.S.C. § 103

Claims 2, 8 and 12-15 stand rejected under 35 USC § 103(a) as being unpatentable over Maramatsu in view of U.S. Patent 4,531,305 to Nagayasu et al. This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

Initially, Applicants note that this rejection is moot with respect to claims 2 and 8, which have been canceled.

During patent examination the PTO bears the initial burden of presenting a *prima facie* case of unpatentability. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). If the PTO fails to meet this burden, then the applicant is entitled to the patent.

A rejection must be based on objective evidence of record, not merely conclusionary statements of the Examiner. See, In re Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002). The Office cannot shift its burden of making a *prima facie* case of obviousness of the claimed invention by referring to unobvious or unexpected results or by speculating that a claimed feature is a mere design choice.

An Examiner may not, because of doubts that the invention is patentable, resort to speculation, unfounded assumptions or hindsight

reconstruction to supply deficiencies in the factual basis required to make a proper rejection under the statutes, See, In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), cert. denied, 389 U.S. 1057 (1968).

It is well settled that a rejection under 35 U.S.C. §103 cannot properly be based on speculation but must be based on objective factual evidence of record. See, In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), cert. denied, 389 U.S. 1057 (1968). See, also, In re GPAC, Inc., 35 USPQ2d 1116 at 1123 (Fed. Cir. 1995) and Ex parte Haymond, 41 USPQ2d 1217 at 1220 (Bd. Pat. App. & Int. 1996).

A factual inquiry whether to modify a reference must be based on objective evidence of record, not merely conclusory statements of the Examiner. See, In re Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

A showing of a suggestion, teaching, or motivation to combine the prior art references is an "essential evidentiary component of an obviousness holding." C.R. Bard, Inc. v. M3 Sys. Inc., 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998). This showing must be clear and particular, and broad conclusory statements about the teaching of multiple references, standing alone, are not "evidence." See In re Dembiczak, 175 F.3d 994 at 1000, 50 USPQ2d 1614 at 1617 (Fed. Cir. 1999).

A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set

out in the reference, or would be led in a direction divergent from the path that was taken by the applicant. See United States v. Adams, 383 U.S. 39, 52, 148 USPQ 479, 484 (1966); W.L. Gore & Assoc., Inc. v. Garlock, Inc., 721 F.2d 1540, 1550-51, 220 USPQ 303, 311 (Fed. Cir. 1983) (the totality of a reference's teachings must be considered), cert. denied, 469 U.S. 851 (1984); In re Sponnoble, 405 F.2d 578, 587, 160 USPQ 237, 244 (CCPA 1969); In re Caldwell, 319 F.2d 254, 256, 138 USPQ 243, 245 (CCPA 1963) and In re Gurley, 31 USPQ2d 1130 (Fed. Cir. 1994).

The office Action admits that Maramatsu does not teach determining the residual drying time based on a combination of detected moisture levels and exhaust gas temperatures.

In an attempt to remedy this deficiency, the Office Action turns to Nagayasu, which controls drying time of a clothes dryer by determining moisture level with electrodes and by determining exhaust gas temperatures.

In view of Nagayasu's teaching "that determining drying time based on this combination of the moisture levels and exhaust gas temperatures leads to a more accurate estimation of drying time," the Office Action concludes that it would be obvious to modify the drying method of Maramatsu with the moisture and temperature combination of Nagayasu.

Applicants respectfully disagree.

In the first place, Maramatsu was well aware of using a temperature sensor for detecting an exhaust gas temperature from the drying chamber to estimate a time required for clothes drying and display that time on a display device – see col. 1, lines 54 to col. 2, lines 1-7. Despite that knowledge, Maramatsu deliberately chose not to employ using an exhaust gas temperature sensor to estimate the time required for a drying operation, stating that such a method has drawbacks.

Instead, Maramatsu deliberately chose to only detect the degree of dryness of the clothes in a clothes dryer by using the resistance of clothes contacting between detection electrodes 9.

In view of this, Applicants respectfully submit that it would not be obvious to modify Maramatsu to include an exhaust gas temperature sensor and use its output to estimate the time required for a drying operation.

This explicit decision not to use an exhaust gas temperature measurement in Maramatsu teaches away from using it.

In the second place, Nagayasu uses dryer exhaust gas temperature measurements not to display and give a user control over the dryer operation, as does Maramatsu, but to terminate the heat cycle automatically.

Applicants respectfully submit that one of ordinary skill in the art would have no incentive to modify Maramatsu to include dryer gas temperature measurements to terminate the heat cycle automatically, because it would defeat

one of the main purposes of Maramatsu, i.e., to give a user the option to personally control different degrees of dryness, e.g., "thorough," "iron press" and "standard," based on the displayed clothes resistance measurements, as taught by Maramatsu.

Applicants respectfully submit that the proposed modification of Maramatsu in view of Nagayasu would require a major redesign of both references and what it would achieve is not clear from an analysis of both references or the rejection which simply states to add a dryer exhaust gas measurement feature with no direction as to what will result.

Under the circumstances, Applicants respectfully submit that this rejection does not make out a *prima facie* showing of proper motivation to modify Maramatsu in view of Nagayasu, as suggested, and, therefore, does not make out a *prima facie* case of obviousness of the claimed invention.

Furthermore, claim 12 have been amended to positively recite a combination of features including "a controller for reading a residual drying time corresponded to a sum of the moisture quantity and a variation of the outlet temperature value of the drum from a storage storing a pre-calculated residual drying time on the basis of the moisture quantity and the outlet temperature value of the drum," and claim 15 has been amended to positively recite a combination of features including "reading a residual clothes drying time corresponded to a sum of the detected moisture quantity and a variation

in temperature value from a memory storing a residual drying time pre-calculated on the basis of the moisture quantity and outlet temperature value of the drum."

Neither of the applied references disclose these combinations of features.

Accordingly, reconsideration and withdrawal of this rejection of claims 12-15 is respectfully requested.

Additional Cited References

Because the remaining references cited by the Examiner have not been utilized to reject the claims, but have merely been cited to show the state of the art, no comment need be made with respect thereto.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Robert J. Webster, Registration No. 46,472, at (703) 205-8000, in the Washington, D.C. area.

Prompt and favorable consideration of this Amendment is respectfully requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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